IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.330 OF 2007

Commissioner of Income Tax, Aurangabad ..Appellant.

V/s.

Gangapur Sahakari Sakhar Karkhana Ltd. ..Respondent.

Mr.B.M.Chatterjee with Ms.Poonam Bhosale for appellant.

Mr.S.N.Inamdar with A.K.Jasani for respondent.

CORAM : F.I.REBELLO AND
J.P.DEVADHAR, JJ.

DATED : 25TH JULY, 2007.

P.C. :-

1. The Commissioner of Income Tax, Aurangabad has filed this appeal under 260A of the Income Tax Act, 1961 stating that the following question of law arise out of the order dated 10/2/2006 of the Tribunal.

> " Whether on the facts and in the circumstances of the case, the Tribunal was justified in holding that non refundable deposit and interest on non refundable deposits are income and, therefore, taxable ? "

2. Counsel on both sides agree that the aforesaid question is answered by this Court in the case of **Commissioner of Income-Tax V/s. Malegaon Sahakari Sakhar Karkhana Ltd.** reported **in 279 of I.T.R. 19** in favour of the assessee and against the revenue.

3. In this view of the matter, the question is answered in favour of the assessee and against the revenue.

4. Appeal is accordingly disposed of with no order as to costs.

(F.I.REBELL0, J.)

(J.P.DEVADHAR, J.)